



Appeal Decision

Site visit made on 26 January 2022

by Felicity Thompson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2022

Appeal Ref: APP/P4225/C/21/3284829

Land known as 12 Victoria Street, Littleborough OL15 9DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Mark Schofield against an enforcement notice issued by Rochdale Metropolitan Borough Council.
 - The notice was issued on 29 September 2021.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the construction of a single storey side and rear extension.
 - The requirements of the notice are to: a) Demolish the single storey side and rear extension;
(b) Restore the Land, inclusive of the surface treatments and resulting exposed elevations of the house, to their former condition prior to the breach taking place;
(c) Remove all materials and items resulting from compliance with requirements (a) and (b) from the Land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) and the deemed planning application

2. The main issue is the effect of the extension on the character and appearance of the area, including its effect on the setting of the Littleborough Town Centre Conservation Area.
3. The appeal property consists of a traditional 19th century modest end of terrace house constructed from stone under a slate roof, located close to the boundary of the Littleborough Town Centre Conservation Area. It appears that Littleborough is a former mill town which includes both commercial and residential properties, with many traditional buildings and a well-maintained historic character and appearance.
4. It seems to me that houses in this and surrounding terraces would have provided housing for local workers. The majority of windows in houses in the immediate locality have been replaced with UPVC windows of various styles and colour. However, despite these changes, the houses in this terrace largely retain their simple historic appearance and make a positive contribution to the setting of the adjacent Conservation Area.

5. The extension, subject of the appeal, is highly visible from the streetscene and appears as a substantial and prominent addition due to its width and the extent of its rearward projection. Notwithstanding the inclusion of a stone plinth, the glazed upper sections and polycarbonate roof have a distinctly modern appearance which does not reflect and is unsympathetic to the simple, traditional architectural style of the house. Whilst the windows and rainwater goods match those in the existing house, due to its scale and design, the extension appears as a dominant and incongruous addition which has a significant adverse effect on the character and appearance of the house and the setting of the Conservation Area.
6. The appellant indicates that they would be willing to replace the plywood panels with UPVC rosewood shiplap cladding. However, whilst a condition could be imposed to secure this, this would not address the design or size.
7. I acknowledge there is no harm to the living conditions of neighbours and note a representation of support however, these are neutral matters that cannot outweigh the identified harm.
8. The appellant referred to other 'cladded' buildings near to the appeal property, within the Conservation Area. However, whilst those buildings have a fairly rudimentary appearance, they do not occupy such a prominent position as the appeal development. In respect of the conservatory referred to, it neither compares in terms of scale or siting. In any event, I do not know the circumstances of those developments being permitted.
9. I consider the harm cause to the setting of the Conservation Area to be less than substantial. The National Planning Policy Framework (the Framework) states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits.
10. There was previously a flagged area, shed and what the appellant states was an unattractive waney lap fence to the side of the house. From the submissions it appears that both the shed and fence were typically domestic in scale and design. Moreover, given that they have been demolished, any affects that they had on the character and appearance of the house and setting of the Conservation Area no longer exist. Their former presence therefore carries limited weight.
11. Consequently, there are no public benefits to outweigh the great weight that I am required to attach to the heritage asset's conservation. I conclude that the development does not accord with the design and heritage protection aims of Policies SO3, P1, P2, P3 and DM1 of the Council's Core Strategy¹. Together these policies require high quality design which conserves and enhances townscape character and heritage assets. It also fails to accord with national policy which seeks to conserve and enhance the historic environment and the aims of the Council's SPD² to ensure extensions are designed to be in keeping with the host property and generally subservient to it.
12. The Council referred to Policy SD1 of the Core Strategy which is a strategic policy and which I find is not directly relevant to the detailed considerations in this case.

¹ Rochdale Adopted Core Strategy October 2016

² Rochdale Borough Council Guidelines & Standards for Residential Development SPD Adopted June 2016

Other Matters

13. The appellant stated that they would like to retain the concrete slab foundation as this would be costly to remove and could be re-used as a base for a patio or driveway.
14. However, the terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. The allegation cannot be corrected to enable a development different to that which is correctly defined in the notice. I am therefore unable to consider granting permission for this alternative development. It is however open to the appellant to apply for planning permission for a patio or driveway.
15. The appellant's misgivings about the Council's handling of the case are separate matters which have no bearing on the planning merits of the development.

Conclusion on ground (a)

16. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed.

The appeal on ground (f)

17. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)).
18. Where the breach of planning control is unauthorised operational development, and the purpose of the notice is to remedy the breach, it is customary to require that the operations be removed, and land restored to its previous condition. Those are the requirements of this notice and so the purpose must be to remedy the breach.
19. In this situation, the only appeal that can be made on ground (f) is that the requirements of the notice are excessive to remedy the breach. It cannot be argued that the requirements are excessive in order to remedy harm.
20. The appellant's suggested alternative, being the retention of the slab foundation, would not remedy the breach of planning control.
21. Consequently, since the requirements would do no more than seek to achieve the purpose of the notice – to remedy the breach of planning control, they are not excessive. The appeal on ground (f) therefore fails.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR